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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/360,877	07/23/99	BURZYNSKI	M P-1522-1 ^{WC}

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EXAMINER

BLYVEIS, D

ART UNIT

PAPER NUMBER

3763

DATE MAILED:

07/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/360,877

Applicant(s)

Burzynski et al.

Examiner
Deborah Blyveis

Group Art Unit
3763

☒ Responsive to communication(s) filed on Jul 7, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-15 and 31-42 is/are pending in the application.

Of the above, claim(s) 3-5, 8, 10-15, 32, 36-38, and 42 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, 6, 7, 9, 31, 33-35, and 39-41 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3763

Election/Restriction

1. Applicant's election of claims 1, 2, 5, 6, 7, 9, 11-15, 31, 33-35, and 39-41 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The Examiner agrees that claims 1, 31, and 39 are generic and the other dependent claims will be upon the allowance of 1, 31, and 39.

Applicant elected species F, fig. 2a. Claim 3 is not included in this elected because it claims a non-convergent surface that defines a groove which reads on figure 8C. Since claims 5 and 11-15 depend on claim 3, which was not part of the elected species, those claims will not be examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 41, there is no antecedent basis for "the first gate aperture."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 6, 31, 33-35, 39, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Aniuk et al.

Aniuk et al. disclose an external needle cannula (22) with a hub (24) and an internal blunting member (20) with a hub (28), see fig. 2. It further includes a guide surface which is the inside surface of the hub (24). This guide surface has at its proximal end a first entry aperture larger than the through-bore of the needle, and at its distal end a first gate aperture not larger the through-bore.

6. Claims 1, 7, 9, 31, and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Sahi et al.

Sahi et al. disclose an external needle cannula (14) with a hub (16) and an internal blunting member (40) with a hub (44), see figs. 1D-1F. It further includes a guide member (46) which defines a guide surface.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reynolds, McWha, Corn, and Mooredhead disclose analogous devices.
8. Questions regarding faxes or the status of this application should be directed to the receptionist whose telephone number is (703) 308-0858.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah Blyveis whose telephone number is (703) 308-2110. On April 1, 1999, art unit 3734 became art unit 3763, and all correspondence should be addressed accordingly.

Sharon Kennedy
Sharon Kennedy
Primary Examiner

d.b. *bn 7/19/00*

July 19, 2000